

REMARKS

This paper is submitted in response to the Office Action mailed on September 16, 2008. Claims 22-24 and 26-30 remain in the application. Claims 7 and 25 have been canceled and new claims 26-30 have been added by way of this response. In view of the foregoing amendments, as well as the following remarks, Applicants respectfully submit that this application is in complete condition for allowance and request reconsideration of the application in this regard.

Rejections under §112, second paragraph

Claims 23 and 25 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter applicants regard as the invention. Claim 23 has been amended to depend from new independent claim 26 and claim 25 has been canceled herein, rendering both rejections moot.

Rejections under §102(b)

Claims 7, 23 and 25 stand rejected under U.S.C. § 102(b) as being clearly anticipated by U.S. Patent No. 4,647,433 to Spector ("Spector"). Claims 7 and 25 have been canceled rendering the rejections of these claims moot. Claim 23 has been amended to depend from new independent claim 26. For purposes of this response, arguments focus on the allowability of independent claim 26, for all claims depending therefrom are allowable if claim 26 is allowable.

New independent claim 26 recites language generally found in now canceled claim 7, thus introducing no new matter. Claim 26 recites, in pertinent parts, “a base strip of porous material” and “a plurality of individual pockets defined by a porous material and extending from said base strip.” Neither of the cited references discloses such elements of an air flow through freshening member.

Spector discloses a carrier strip 17 of paper or plastic film having capsules (10) adhesively attached onto a face surface thereof (Spector at col. 4, lines 16-20 and FIG. 5). Each of the capsules (10) includes a pad (11) impregnated with a volatile liquid fragrance and which is sandwiched between plies (12, 13). The plies (12, 13) are formed of a deformable metal-foil plastic film laminate (Spector at col. 3, lines 20-30). A vent hole (14) is formed in one of the plies (12, 13) to provide the only escape for the scented vapor (Spector at col. 3, lines 49-50). In this regard, therefore, the plies (12, 13) that form the pockets containing the liquid fragrance are not made of a porous material. And neither could the material making up the plies (12, 13) be modified to be formed of a porous material, as this would result in the undesirable escape of the scented vapor emanating from the liquid fragrance contained in the formed pocket.

Further, Spector’s “carrier” strip 17 is made of paper or plastic film, “having a smooth coated face surface onto which the capsules are adhesively attached” (Spector at col. 4, lines 19-20). The coated face is so configured to permit the capsules to be readily released from the surface of the carrier strip 17 (Col 4, lines 18-22). Spector neither states nor suggests that the carrier strip 17 has a porous characteristic. In fact, reference to the strip having a “smooth coated face surface” would indicate an opposite interpretation. Moreover, the non-porosity of the carrier strip 17 is clearly

established by the use thereof “[i]nstead of using a peel-off protective disc” to prevent the loss of scent when the capsule is being stored (Spector at col. 4, lines 10-18). A reasonable interpretation of the disclosure of Spector, therefore, would necessarily establish that the material making up the carrier 17 is non-porous to thereby prevent the undesirable loss of scent.

Accordingly, Applicants respectfully submit that new claim 26 recites a combination of elements neither disclosed in nor obvious in view of Spector. Moreover, and as stated above, claim 23 has been amended to depend from new independent claim 26. Claim 23 accordingly likewise recites a combination of elements neither disclosed in nor obvious in view of Spector and is therefore allowable for this reason and by virtue of depending from an allowable claim.

Rejections under §103(a)

Claims 22 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Spector in view of U.S. Patent No. 5,129,929 to Linnersten (“Linnersten”).

Examiner resorts to Linnersten for a teaching of pocket members having a triangular cross-section and lends no patentable weight to the recitation in claim 24 of bars having a rectangular cross-section (Office Action at pp. 4-5). Claims 22 and 24 have been amended to depend from new claim 26. Linnersten discloses a sorbent pad (1) having substantially triangular-shaped ridges (2) and a filter device (4) juxtaposed over the ridges (2). While the filter device (4) arguably defines “pockets” surrounding the ridges (2) and while such device is made of a porous material (i.e., being a filter),

such material could not be substituted for the plies (12, 13) (formed of a deformable metal-foil plastic film laminate) of the capsules (10) of the device in Spector, at least for the reasons discussed above regarding the allowability of claims 23 and 26.

Moreover, Applicants submit that Examiner has failed to present a *prima facie* case of obviousness of the inventions recited in claims 22 and 24. More particularly, the rejection of these claims fails because of the improper combination of the asserted teachings provided by the Spector and Linnersten disclosures.

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). In this regard, modifying the capsules of the disclosure of Spector to a triangular cross-section “in order to conveniently fit into the hollows between the pleats of a filter for compact design” (Office Action at p. 4) would change the principle of operation of the capsules, inasmuch as release of the fragrance from the capsules would no longer rely on the heat from a bulb but rather from the flow of the not-necessarily heated air through the filter to which the modified capsules would be coupled.

Accordingly, the rejection of claims 22 and 24 is also improper for the foregoing reason and the claims are thus allowable over the asserted combination of the teachings of Spector and Linnersten.

Accordingly, Applicants respectfully submit that each of claims 22 and 24 is allowable at least by virtue of depending from an allowable claim and further as each

recites a combination of elements neither disclosed in Spector nor obvious over the combined teachings of Spector and Linnersten.

New Claims

New claims 26-30 have been added. Independent claim 26 is not discussed hereinafter, as it is discussed above with respect to the allowability of claim 23.

Each of new claims 27-29 depends from new independent claim 26. New claim 27 introduces a recitation of each of the plurality of pockets being a folded structure defining a loop adjacent the base strip. No new matter is introduced by way of this language, as it is fully supported in the specification. *See, for example*, Application at p.21, lines 5-9 and FIG. 9. Moreover, neither of the cited references discloses such feature.

New claim 28 introduces a recitation of each of the pockets being fusion bonded to the base strip. No new matter is introduced by way of this language, as it is fully supported in the specification. *See, for example*, Application at p.21, lines 1-4 and FIG. 8. Moreover, neither of the cited references discloses such feature.

New claim 29 introduces a recitation of the base strip and the pockets being made from a common layer of porous material. No new matter is introduced by way of this language, as it is fully supported in the specification. *See, for example*, Application at FIG. 9. Moreover, neither of the cited references discloses such feature.

New claim 30 introduces language similar to that found in independent claim 26 and positively claims an air filter in addition to the elements recited in claim 26. Accordingly, no new subject matter is introduced by way of this new claim. Moreover,

neither of the cited references discloses all the elements recited in claim 30.

Applicants respectfully submit that each of new claims 27-30 is allowable at least by virtue of depending from an allowable claim, and further as each recites a combination of elements neither disclosed in nor obvious over the cited references. Early notice of allowance of the new claims is earnestly requested.

Conclusion

In view of the foregoing response including the amendments and remarks, this application is submitted to be in complete condition for allowance and early notice to this effect is earnestly solicited. If the Examiner believes any matter requires further discussion, the Examiner is respectfully invited to telephone the undersigned attorney so that the matter may be promptly resolved.

Applicants do not believe that any fees are due in connection with this response. However, if such petition is due or any fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

/Clement H. Luken, Jr. /

Clement H. Luken, Jr.

Reg. No. 32742

2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202
(513) 241-2324 (voice)
(513) 421-7269 (facsimile)